

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Wassim Abedrabbo	Team: Squad #09	CCRB Case #: 202003918	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 06/04/2020 8:30 PM	Location of Incident: in front of § 87(2)(b)	Precinct: 73	18 Mo. SOL 12/4/2021	EO SOL 5/4/2022	
Date/Time CV Reported Fri, 06/05/2020 7:50 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 06/05/2020 7:50 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Jamarr Burnett	18784	954585	PSA 2

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Lisandro Pena	5278	952101	PSA 2
2. LT Kevin Walsh	00000	919845	PSA 2

Officer(s)	Allegation	Investigator Recommendation
A.POM Jamarr Burnett	Off. Language: Police Officer Jamarr Burnett made remarks to § 87(2)(b) based upon § 87(2)(b) race.	§ 87(2)(b)
B.POM Jamarr Burnett	Untruthful Stmt.: Police Officer Jamarr Burnett provided a misleading official statement to the CCRB.	§ 87(2)(b)

### Case Summary

On June 5, 2020, § 87(2)(b) filed this complaint on behalf of § 87(2)(b).

On June 4, 2020, members of the § 87(2)(b) NYCHA community held a vigil in front of § 87(2)(b) in Brooklyn, after the police involved shooting death of § 87(2)(b) brother, § 87(2)(b) two days prior. At approximately 8:30 p.m., as § 87(2)(b) was walking away from the vigil while crying, Police Officer Jamar Burnett, of the 112<sup>th</sup> Precinct, allegedly said, “He should not have been shooting at cops. I would have shot that little nigger myself” (**Allegation A: Offensive Language – Race**, § 87(2)(g)). Ultimately, Sergeant Lisandro Pena, also of the 112<sup>th</sup> Precinct, and PO Burnett walked away from the interaction.

During his statement to the CCRB on January 5, 2021, PO Burnett repeatedly stated that he did not recall the event in question (**Allegation B: Untruthful statement – Misleading official statement**, § 87(2)(g)).

NYCHA CCTV video was obtained in relation to this incident (**Board Review 01**). Requests for BWC returned negative results twice, as this is not a situation where BWC activation is mandatory.

No arrests were made, and no summonses were issued because of this incident.

On September 23, 2020, this case was reassigned from Investigator Faaria Tasnim to Supervising Investigator Wassim Abedrabbo.

### Findings and Recommendations

#### **Allegation (A) Offensive Language: Police Officer Jamarr Burnett made remarks to § 87(2)(b) based upon § 87(2)(b) race.**

It is undisputed that on June 4, 2020, a community vigil was being held for § 87(2)(b) who was killed as the result of an officer involved shooting on June 2, 2020, in the vicinity of the § 87(2)(b) NYCHA Houses in Brooklyn.

§ 87(2)(b) did not participate in this investigation.

In her statement to the CCRB, § 87(2)(b) stated as she and family members were walking from the courtyard of § 87(2)(b) to the sidewalk of Blake Avenue via a walkway between § 87(2)(b) and § 87(2)(b) (**Board Review 02**). As they walked, she was approximately four feet behind § 87(2)(b) who was distraught and crying; at which time, PO Burnett unprovokedly said, “He should not have been shooting cops. I would have shot that little nigger myself.” As a result, § 87(2)(b) stopped walking and turned to PO Burnett and asked, “How can you say that?” § 87(2)(b) became more upset. PO Burnett’s body language then became aggressive, and § 87(2)(b) sensed that PO Burnett was implying that she should “get § 87(2)(b) before” PO Burnett did. As a result, § 87(2)(b) walked closer to § 87(2)(b) and then told PO Burnett to excuse her. § 87(2)(b) ultimately calmed down and walked away in the direction of the asphalt of Blake Avenue where their vehicle was parked and waiting for them.

The NYCHA CCTV video file titled, “§ 87(2)(b) Sidewalk facing Management Office Building 11.mp4,” attached to IA 106 of the electronic case file captures this incident in question (**Board Review 01**) (**Board Review 03**). At 24:30, the video depicts NYPD officers standing on the North sidewalk of Blake Avenue in Brooklyn, at the end of a walkway that leads between § 87(2)(b) and § 87(2)(b). At 24:51, two black female individuals walk into the frame via the walkway between § 87(2)(b) and § 87(2)(b). After the two black females walk through the group of officers, at 24:56, they stop and turn toward the officers, seemingly speaking to the officers. After approximately 15 seconds, additional civilians walk in the direction of the two black females, and they escort one of them toward a SUV parked with its door open on Blake Avenue.

At 27:56, Sergeant Pena walks to PO Burnett and the two officers walk away from the crowd of officers and civilians toward Mother Gatson Boulevard.

PO Burnett stated that he did not recall the incident in question (**Board Review 04**). When

asked, he stated that he did not recall that there was an NYPD shooting death of a civilian that involved PSA 2 officers on June 2, 2020 or in early June 2020. He did not recall whether there was a vigil on the date in question. When asked whether he said, "I would have shot that little nigger myself," PO Burnett stated that he did not recall the day in question.

PO Burnett was presented with the video file titled "§ 87(2)(b) Sidewalk facing Management Office Building 11.mp4," attached to IA 106 of the electronic casefile, between 25:00 and 28:11 (**Board Review 03**). At 28:11, PO Burnett identified himself in the frame. Of six individuals depicted, there are two uniformed NYPD officers. PO Burnett identified himself as the black male positioned lower in the frame, and his partner, Sergeant Pena as the other officer. When asked, PO Burnett stated that watching the video did not refresh his recollection of the incident in question. When asked what prompted just him and Sergeant Pena to walk away from the incident at that part of the incident, PO Burnett stated that he believed they were resuming patrol because of what he saw them doing in the video. PO Burnett was not able to identify any other officer present depicted in the video.

The investigation interviewed Sergeant Pena, who stated that he did not recall the day or incident in question (**Board Review 05**). Sergeant Pena was not able to identify any other officers present during the incident in question.

Lieutenant Kevin Walsh provided a statement relating to the incident in question (**Board Review 06**). Lieutenant Walsh was the Platoon Commander of PSA2 on June 4, 2020. He was not able to identify any of the witness officers depicted in the NYCHA video footage. Upon being presented the associated Roll Call, Lieutenant Walsh stated that there were no assignments or notations that would indicate to him which officers were present for a vigil at the location on that date.

The NYCHA footage corroborates § 87(2)(b) account that § 87(2)(b) abruptly stopped as she was walking past the officers, that there was a conversation between the officers and civilians, and that she needed to be escorted away from that position to a parked vehicle. Given that the footage corroborates § 87(2)(b) statement and the actions depicted support the claim that an unexpected and upsetting remark was made to § 87(2)(b) and PO Burnett did not deny making the statement alleged, the investigation is crediting by a preponderance of the evidence that PO Burnett made an offensive remark to § 87(2)(b) based upon § 87(2)(b) race.

**Patrol Guide Procedure 203-10** Members of service are prohibited from using discourteous or disrespectful remarks regarding a person's race (**Board Review 07**).

§ 87(2)(g)

**Allegation (B) Untruthful Statement: Police Officer Jamarr Burnett provided a misleading official statement to the CCRB.**

It is undisputed that on June 2, 2020, § 87(2)(b) was shot and killed by NYPD officers from PSA 2 and the 73<sup>rd</sup> Precinct. It is also undisputed that the vigil on June 4, 2020, was held because of his death.

During his CCRB interview on January 5, 2021, PO Burnett stated that he did not recall the day in question or that there was a police shooting involving his precinct just two days before (**Board Review 04**). When presented the NYCHA video associated or provided any information related to the incident as means of context, he stated that he did not recall.

**Patrol Guide Procedure 203-08 (Board Review 08)**. A misleading statement is a statement intended to misdirect the investigation and alter the narrative by making repeated claims of not recalling the incident when a reasonable person in a similar circumstance would have recalled.

Given that the vigil was related to an NYPD involved shooting death of a civilian two days after its occurrence, the investigation has determined that a reasonable person in a similar circumstance would have recalled the occurrence of the vigil, or at minimum the police involved

shooting that prompted the vigil. § 87(2)(g)

### Civilian and Officer CCRB Histories

- The is the first CCRB complaint to which § 87(2)(b) has been a party to (**Board Review 09**).
- The is the first CCRB complaint to which § 87(2)(b) has been a party to (**Board Review 10**).
- PO Burnett has been a member of service for seven years and has been a subject in four other CCRB complaints and 19 other allegations, none of which were substantiated. § 87(2)(g)

### Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of May 12, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (**Board Review 13**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad No.: 09

Investigator:	<u>Wassim Abedrabbo</u>	<u>SI Wassim Abedrabbo</u>	<u>9/8/2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Monique West</u>	<u>IM Monique West</u>	<u>9/8/2021</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date